

STATE OF MICHIGAN
COURT OF APPEALS

LISA ANN GHIGLIAZZA,

Plaintiff-Appellant,

v

AUTO OWNERS INSURANCE COMPANY,

Defendant-Appellee.

UNPUBLISHED

October 7, 2008

No. 279727

Oakland Circuit Court

LC No. 2006-076713-NF

Before: O’Connell, P.J., and Smolenski and Gleicher, JJ.

PER CURIAM.

Plaintiff appeals as of right the circuit court’s order dismissing the case “sua sponte for lack of subject matter jurisdiction,” pursuant to MCR 2.116(C)(4). We reverse and remand, and decide this case without oral argument under MCR 7.214(E).

In January 2005, plaintiff sustained injuries during a head-on collision. Defendant is plaintiff’s no-fault insurer. For approximately 15 months after the accident, defendant paid some of plaintiff’s first-party no-fault insurance benefits. On August 1, 2006, defendant informed plaintiff that it planned to cease paying for “medical treatment, wage loss or your health insurance premium in regards to this claim,” effective August 17, 2006. On August 16, 2006, plaintiff filed suit against defendant, alleging that defendant breached its contractual obligation to pay no-fault benefits, including medical expenses, transportation and replacement service expenses, attendant care costs, and wage loss. Plaintiff’s complaint further alleged,

As a result of Defendant’s wrongful refusal to honor the subject Policy of Insurance, Plaintiff has been damaged in an amount in excess of Twenty-Five Thousand Dollars (\$25,000.00), plus costs, attorney fees, and pre-and post-judgment interest.

The circuit court entered a scheduling order that required the parties to participate in case evaluation. In April 2007, a case evaluation panel recommended settlement in the amount of \$3,500. Plaintiff rejected the case evaluation award, pursuant to MCR 2.403(L).

On May 22, 2007, the circuit court conducted a pretrial conference. According to a “Pre Trial Memorandum” subsequently filed by plaintiff, during the pretrial conference “the court stated in an off-the-record discussion with the attorneys that because this matter ‘mediated’ at case evaluation for less than the jurisdictional limits of the circuit court, that this court was

inclined to dismiss the case.” On June 20, 2007, the circuit court stated on the record, “I am pursuant to case law and court rule cited in my opinion and order, signing an order dismissing the case. You still are well within your—there’s no statute of limitations that’s being violated or anything of that nature. Am I correct on that?” Plaintiff’s counsel informed the court that he had not researched the “tolling issue.” The circuit court responded, “You’ve got a six year statute of limitations so I would assume you have no problem there. And, I’m well aware of the one year rule. That’s another rule I don’t necessarily agree with but that’s just one of those things.” Plaintiff now appeals as of right.

“Whether a trial court has subject-matter jurisdiction is a question of law that this Court reviews de novo.” *Brooks v Mammo*, 254 Mich App 486, 492; 657 NW2d 793 (2002). Our Supreme Court has broadly defined subject-matter jurisdiction as the right of a court to exercise judicial power over a given class of cases. *Joy v Two-Bit Corp*, 287 Mich 244, 253; 283 NW 45 (1938). As courts of general jurisdiction, circuit courts have original jurisdiction over “all civil claims and remedies, except where exclusive jurisdiction is given in the constitution or by statute to some other court or where the circuit courts are denied jurisdiction by the constitution or statutes of this state.” *Farmers Ins Exch v South Lyon Community Schools*, 237 Mich App 235, 241; 602 NW2d 588 (1999), quoting MCL 600.605. The district court has exclusive jurisdiction over civil actions in which “the amount in controversy does not exceed \$25,000.00.” MCL 600.8301(1).

A court’s subject-matter jurisdiction is determined only by reference to the allegations contained in the complaint. *Grubb Creek Action Comm v Shiawassee Co Drain Comm’r*, 218 Mich App 665, 668; 554 NW2d 612 (1996). “If it is apparent from the allegations that the matter alleged is within the class of cases with regard to which the court has the power to act, then subject-matter jurisdiction exists.” *Id.* Whether subject-matter jurisdiction exists must be determined by reference to the pleaded allegations, rather than the facts of a case. *Fox v Martin*, 287 Mich 147, 151; 283 NW 9 (1938). “The question of jurisdiction does not depend on the truth or falsity of the charge, but upon its nature” *Altman v Nelson*, 197 Mich App 467, 472; 495 NW2d 826 (1992).

In 1998, our Supreme Court enacted Administrative Order No. 1998-1, which permits a circuit court to transfer a case to the district court if the circuit court determines “to a legal certainty” that the amount in controversy does not exceed the district court’s jurisdictional limit. *Brooks, supra* at 491-492, quoting AO 1998-1. In *Brooks*, this Court explained that the Supreme Court entered AO 1998-1 because it sought “to expressly prohibit” a circuit court from making a determination that “it lacked subject-matter jurisdiction . . . sua sponte upon the rendering of a mediation evaluation of less than \$10,000.”¹ *Id.* at 495. Although a case evaluation result “may provide some guidance regarding a decision to transfer an action, it is not dispositive. “AO 1998-1 clearly provides that the allegations of the complaint must be considered in determining whether the amount in controversy appears to a legal certainty to be within the jurisdictional

¹ Case evaluation was formerly known as “mediation,” and the district court’s jurisdictional damage limit previously constituted \$10,000.

limit of the district court.” *Etefia v Credit Technologies, Inc*, 245 Mich App 466, 475; 628 NW2d 577 (2001).

Plaintiff’s complaint alleges that defendant failed to pay no-fault benefits exceeding \$25,000. The record reveals that the circuit court dismissed the case for the sole reason that the case evaluation award did not exceed \$25,000. Because the allegations in plaintiff’s complaint plainly describe an amount in controversy that exceeds \$25,000, exclusive of costs, attorney fees or interest, the circuit court erred by dismissing this case for lack of subject-matter jurisdiction.

Reversed and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Peter D. O’Connell
/s/ Michael R. Smolenski
/s/ Elizabeth L. Gleicher